

STATE OF HAWAII
HAWAII LABOR RELATIONS BOARD

In the Matter of

DIRECTOR, DEPARTMENT OF LABOR
AND INDUSTRIAL RELATIONS,

Complainant,

vs.

TESORO HAWAII CORPORATION,

Respondent.

CASE NO. OSH 2007-1

ERRATA

ERRATA

The Pretrial Order in this matter was inadvertently sent out without an Order number. The Order No. is 234.

DATED: Honolulu, Hawaii, February 2, 2007.

HAWAII LABOR RELATIONS BOARD


BRIAN K. NAKAMURA, Chair


EMORY J. SPRINGER, Member


SARAH K. HIRAKAMI, Member

Copies sent to:

Herbert B.K. Lau, Deputy Attorney General
Patrick H. Jones, Esq.

vSTATE OF HAWAII
HAWAII LABOR RELATIONS BOARD

In the Matter of

DIRECTOR, DEPARTMENT OF LABOR
AND INDUSTRIAL RELATIONS,

Complainant,

vs.

TESORO HAWAII CORPORATION,

Respondent.

CASE NO. OSH 2007-1

ORDER NO.

PRETRIAL ORDER

PRETRIAL ORDER

Pursuant to the initial conference in this matter held by the Hawaii Labor Relations Board ("Board") on February 1, 2007, and attended by Herbert B.K. Lau, Deputy Attorney General, for Complainant, and Patrick H. Jones, Esq., for Respondent, IT IS HEREBY ORDERED THAT:

1. The issues to be determined at trial are as follows:
 - A. Whether the characterization of Citation 1 as "Serious" was proper. Citation 1 states that "HAR § 12-60-2(a)(3) was violated because: Hot asphalt stored in tank #513 was not kept below 350 degrees F. As a result the carbonaceous deposits in the top of the tank started to glow. Explosive gases ignited and an explosion occurred. Employees were exposed to potential 2nd degree burns from the 'coke' deposits that flew out from the tank."
 - B. Whether the \$1,500 penalty is proper.
 - C. The sub-issues to the above are:
 - i. Whether HIOSH correctly described the inspection type in this case;
 - ii. Whether HIOSH correctly characterized the citation in this case as being a "serious" violation;

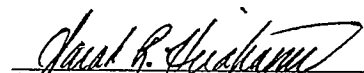
- iii. Whether HIOSH accurately described the incident which occurred that led to the investigation;
 - iv. Whether HIOSH properly assessed the probability that injuries could have occurred as a result of the incident that led to the investigation;
 - v. Whether HIOSH properly assessed the possible risks to employee safety in this case; and
 - vi. Whether HIOSH properly calculated the penalty which it seeks to impose in the citation.
2. The deadline for the parties' final naming of witnesses is April 13, 2007.
 3. The discovery cutoff date is May 2, 2007.
 4. Trial in this matter is scheduled for July 23, 2007, at 9:30 a.m., or as soon thereafter as this case can be heard, in the Board's hearing room located at Room 434, 830 Punchbowl Street, Honolulu, Hawaii, 96813. The trial will continue from day-to-day until completed.
 5. Hereafter, this Pretrial Order shall control the course of proceedings and may not be amended except by consent of the parties and the Board, or by order of the Board.

DATED: Honolulu, Hawaii, February 1, 2007.

HAWAII LABOR RELATIONS BOARD


BRIAN K. NAKAMURA, Chair


EMORY J. SPRINGER, Member


SARAH R. HIRAKAMI, Member

NOTICE TO EMPLOYER

You are required to post a copy of this Order at or near where citations under the Hawaii Occupational Safety and Health Law are posted at least five working days prior to the trial date. Further, you are required to furnish a copy of this Order to a duly recognized representative of the employees, if any, at least five working days prior to the trial date.

Copies sent to:

Herbert B.K. Lau, Deputy Attorney General
Patrick H. Jones, Esq.